

OTHER APPLICABLE LAWS AND REGULATIONS

How it all comes together?

Geoff Middaugh

Context of Law

- Process laws: FLPMA, NEPA, ESA, APA
- Process Regulations: CEQ regs, 1601 regs, Protests and Appeals
- Duty with discretion: Wild and Scenic Rivers, Wilderness Act, National Historic and Scenic Trails, Antiquities Act.
- **Prescriptive**: Don't do that, or this.
- **Conditional**: Evaluate and come to a conclusion within discretion.

State - Cave Related Laws

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| • Alabama | Arkansas | Arizona |
| • California | Colorado | Florida |
| • Georgia | Hawaii | Idaho |
| • Illinois | Indiana | Kentucky |
| • Maine | Maryland | Missouri |
| • Montana | Nevada | New Mexico |
| • N. Carolina | Ohio | Oklahoma |
| • Pennsylvania | Tennessee | Vermont |
| • Virginia | W. Virginia | Wisconsin |

- The definition of cave varies greatly and ranges from
 - “historic” sites to caverns. (No laws for UT, SD, OR)

FEDERAL LAWS

- *Federal Land Policy and Management Act 1976 (43 USC 1701)*
- *National Forest Management Act of 1976 (16 USC 1600)*
- *Forest Service Organic Administration Act of 1897*
- *National Park Service Organic Act 1916 (16 USC 1-4, 22, 43)*
- *Federal Land Policy and Management Act 1976 (43 USC 1701)*
- *Freedom of Information Act 1974 (5 USC 552)*
- *National Environmental Policy Act 1969 (42 USC 4371)*
- *Wilderness Act 1964 (16 USC 1131-1136)*
- *Land and Water Conservation Fund 1964 (16 USC 460L-L11)*
- *Toxic Substances Control Act*
- *National Cave and Karst Research Institute Act of 1998*
- *Clean Water Act*
- *Wilderness Act 1964*
- *Administrative Procedures Act as amended (APA)*
- *Annual Appropriations Act (Authority to take action and spend \$\$)*

CULTURAL LAWS AND REGULATIONS

- Executive Order 11593 1971 Protection of cultural resources.. naming cultural resources as one of BLM's multiple use responsibilities.
- Archaeological Resources Protection Act 1979 (16 USC 1531) boosting the Antiquities Act's misdemeanor offenses to felonies.
- National Historic Preservation Act 1966 (16 USC 470 & 16 USC 469) (Regs. 36 CFR Part 800 "Protection of Historic Properties)
- National *Native American Grave Protection and Repatriation Act* 1990 (25 USC 3001)
- *Antiquities Act* 1906 (16 USC 431) protects cultural resources.
- Numerous State Laws relating to cultural and historic resources

Wildlife Related Laws & Caves

- *Endangered Species Act* 1973
- *Freedom of Information Act* 1974 (5 USC 552)
- *Sites Act of 1974* promoted federal/state cooperation in managing wildlife habitat
- *Fish and Wildlife Conservation Act* 16 U.S.C. §§ 2901-2911, \ 1980 ("Nongame Act").
- State T&E and Wildlife Protection Laws
- State Game Laws.... protecting bats outside of caves

Miscellaneous Laws

- *Federal Magistrate Act 1979*
- *General Mining Law 1872 (30 USC 22--47)*
- *Mineral Leasing Act of 1920 (30 USC 181- -263)*
- *Surface Mining and Reclamation Act 1977*
- *Classification and Multiple Use Act 1960 (16 USC 528)*
- *The Multiple Surface Use Act 1955 (30 USC 521-531, 541-541i)*
- *Materials Act of 1947 (30 USC 601-604, 611-615)*

What's Important In Law?

- Taking action, implementing plans.
 - Action Law: FLPMA: Manage the public lands and the resources.
 - More demands in law than time and money, therefore priorities are set through appropriations.
 - Budget: The ultimate policy maker.

Code of Federal Regulations

Forest Service - 36 CFR Part 290, NPS 36 CFR

- **Code of Federal Regulations**
- 43 CFR Part 3 **Preservation of Antiquities**
- 43 CFR Part 7 **Protection of Archaeological Resources**
- 43 CFR Part 10 **Native American Grave Protection**
- 43 CFR Part 11 **Natural Resource Damage Assessment**
- **43 CFR Part 37 Cave Management**
- 43 CFR Part 2300 **Withdrawals**
- 43 CFR Part 6200 **Protection and Preservation of Natural Values**
- 43 CFR Part 8200 **Natural History Resource Management**
- 43 CFR Part 8300 **Recreation Management**
- 43 CFR Part 8341 **Conditions of Recreation Use**
- 43 CFR Part 8344 **Recreation Permits.**
- 43 CFR Part 8351.2-1 **Special Recreation Rules**
- 43 CFR Part 8365 **Rules of Conduct**
- 43 CFR Part 8365.1-6 **Supplemental Rules**
- 43 CFR Part 8365.1-7 **State and local laws shall apply and be enforced on federal lands.**
- 43 CFR Part 8372.0-7 **Enforcement, cave permit violations, penalties.**
- 43 CFR Part 8372.1 to 5 **Recreation Permits**
- 43 CFR Part 9229 **Trespass - Removal of cave minerals**